

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

**IN RE: PHILIPS RECALLED CPAP,
BI-LEVEL PAP, AND MECHANICAL
VENTILATOR PRODUCTS
LITIGATION** : **Master Docket: Misc. No. 21-mc-1230-JFC**
: **MDL No. 3014**
: **SHORT FORM COMPLAINT FOR
PERSONAL INJURIES, DAMAGES,
AND DEMAND FOR JURY TRIAL**

This Document Relates to: :

TANNIE BROWN

Plaintiff(s) incorporate(s) by reference the Amended Master Long Form Complaint for Personal Injuries, Damages and Demand for Jury Trial filed in *In re Philips Recalled CPAP, Bi-Level PAP, and Mechanical Ventilator Products Litigation*, MDL No. 3014, Master Docket Misc. No. 21-mc-1230 (the “Master Long Form Complaint”). This Short Form Complaint adopts the allegations, claims, and requested relief as set forth in the Master Long Form Complaint. As necessary herein, Plaintiff(s) may include: (a) additional claims and allegations against Defendants; and/or (b) additional claims and allegations against other Defendants not listed in the Master Long Form Complaint.

Plaintiff(s) further allege(s) as follows:

I. DEFENDANTS

1. Plaintiff(s) name(s) the following Defendants in this action:

- Koninklijke Philips N.V.
 Philips North America LLC.
 Philips RS North America LLC.

Philips Holding USA Inc.

Philips RS North America Holding Corporation.

Polymer Technologies, Inc.

Polymer Molded Products LLC.

II. PLAINTIFF(S)

2. Name of Plaintiff(s):

TANNIE BROWN

3. Name of spouse of Plaintiff (if loss of consortium claim is being made):

N/A

4. Name and capacity (*i.e.*, executor, administrator, guardian, conservator, etc.) of other Plaintiff, if any:

N/A

5. State(s) of residence of Plaintiff(s) (if the Recalled Device user is deceased, residence at the time of death):

SOUTH CAROLINA

III. DESIGNATED FORUM

6. Identify the forum (United States District Court and Division) in which the Plaintiff would have filed in the absence of direct filing:

District of South Carolina- Greenville/Spartanburg Division

IV. USE OF A RECALLED DEVICE

7. Plaintiff used the following Recalled Device(s):

<input type="checkbox"/> <i>E30 (Emergency Use Authorization)</i>	<input type="checkbox"/> <i>Dorma 500</i>
<input type="checkbox"/> <i>DreamStation ASV</i>	<input type="checkbox"/> <i>REMstar SE Auto</i>
<input checked="" type="checkbox"/> <i>DreamStation ST, AVAPS</i>	<input type="checkbox"/> <i>Trilogy 100</i>
<input type="checkbox"/> <i>SystemOne ASV4</i>	<input type="checkbox"/> <i>Trilogy 200</i>
<input type="checkbox"/> <i>C-Series ASV</i>	<input type="checkbox"/> <i>Garbin Plus, Aeris, LifeVent</i>
<input type="checkbox"/> <i>C-Series S/T and AVAPS</i>	<input type="checkbox"/> <i>A-Series BiPAP Hybrid A30 (not marketed in U.S.)</i>
<input type="checkbox"/> <i>OmniLab Advanced +</i>	<input type="checkbox"/> <i>A-Series BiPAP V30 Auto</i>
<input type="checkbox"/> <i>SystemOne (Q-Series)</i>	<input type="checkbox"/> <i>A-Series BiPAP A40</i>
<input type="checkbox"/> <i>DreamStation</i>	<input type="checkbox"/> <i>A-Series BiPAP A30</i>
<input type="checkbox"/> <i>DreamStation Go</i>	<input type="checkbox"/> <i>Other Philips Resironics Device; if other, identify the model:</i>
<input type="checkbox"/> <i>Dorma 400</i>	

V. INJURIES

8. Plaintiff alleges the following physical injuries as a result of using a Recalled Device together with the attendant symptoms and consequences associated therewith:

- COPD (new or worsening)
- Asthma (new or worsening)
- Pulmonary Fibrosis
- Other Pulmonary Damage/Inflammatory Response
- Cancer [] (specify cancer)

- Kidney Damage
- Liver Damage
- Heart Damage
- Death
- Other (specify) _____

VI. CAUSES OF ACTION/DAMAGES

9. As to Koninklijke Philips N.V., Plaintiff(s) adopt(s) the following claims asserted in the Master Long Form Complaint for Personal Injuries, Damages and Demand for Jury Trial, and the allegations and prayer for relief with regard thereto, as set forth therein:

- Count I: Negligence
- Count II: Strict Liability: Design Defect
- Count III: Negligent Design
- Count IV: Strict Liability: Failure to Warn
- Count V: Negligent Failure to Warn
- Count VI: Negligent Recall
- Count VII: Battery
- Count VIII: Strict Liability: Manufacturing Defect
- Count IX: Negligent Manufacturing
- Count X: Breach of Express Warranty
- Count XI: Breach of the Implied Warranty of Merchantability
- Count XII: Breach of the Implied Warranty of Usability
- Count XIII: Fraud
- Count XIV: Negligent Misrepresentation
- Count XV: Negligence Per Se

- Count XVI: Consumer Fraud and/or Unfair and Deceptive Practices Under State Law
- Count XVII: Unjust Enrichment
- Count XVIII: Loss of Consortium
- Count XIX: Survivorship and Wrongful Death
- Count XX: Medical Monitoring
- Count XXI: Punitive Damages
- Count XXII: Other [specify below]

10. As to Philips North America LLC, Plaintiff(s) adopt(s) the following claims asserted in the Master Long Form Complaint for Personal Injuries, Damages and Demand for Jury Trial, and the allegations and prayer for relief with regard thereto, as set forth therein:

- Count I: Negligence
- Count II: Strict Liability: Design Defect
- Count III: Negligent Design
- Count IV: Strict Liability: Failure to Warn
- Count V: Negligent Failure to Warn
- Count VI: Negligent Recall
- Count VII: Battery
- Count VIII: Strict Liability: Manufacturing Defect
- Count IX: Negligent Manufacturing
- Count X: Breach of Express Warranty
- Count XI: Breach of the Implied Warranty of Merchantability

- Count XII: Breach of the Implied Warranty of Usability
- Count XIII: Fraud
- Count XIV: Negligent Misrepresentation
- Count XV: Negligence Per Se
- Count XVI: Consumer Fraud and/or Unfair and Deceptive Practices Under State Law
- Count XVII: Unjust Enrichment
- Count XVIII: Loss of Consortium
- Count XIX: Survivorship and Wrongful Death
- Count XX: Medical Monitoring
- Count XXI: Punitive Damages
- Count XXII: Other [specify below]
[Redacted]

11. As to Philips RS North America LLC, Plaintiff(s) adopt(s) the following claims asserted in the Master Long Form Complaint for Personal Injuries, Damages and Demand for Jury Trial, and the allegations and prayer for relief with regard thereto, as set forth therein:

- Count I: Negligence
- Count II: Strict Liability: Design Defect
- Count III: Negligent Design
- Count IV: Strict Liability: Failure to Warn
- Count V: Negligent Failure to Warn
- Count VI: Negligent Recall
- Count VII: Battery

- Count VIII: Strict Liability: Manufacturing Defect
- Count IX: Negligent Manufacturing
- Count X: Breach of Express Warranty
- Count XI: Breach of the Implied Warranty of Merchantability
- Count XII: Breach of the Implied Warranty of Usability
- Count XIII: Fraud
- Count XIV: Negligent Misrepresentation
- Count XV: Negligence Per Se
- Count XVI: Consumer Fraud and/or Unfair and Deceptive Practices Under State Law
- Count XVII: Unjust Enrichment
- Count XVIII: Loss of Consortium
- Count XIX: Survivorship and Wrongful Death
- Count XX: Medical Monitoring
- Count XXI: Punitive Damages
- Count XXII: Other [specify below]

12. As to Philips Holding USA Inc., Plaintiff(s) adopt(s) the following claims asserted in the Master Long Form Complaint for Personal Injuries, Damages and Demand for Jury Trial, and the allegations and prayer for relief with regard thereto, as set forth therein:

- Count I: Negligence
- Count II: Strict Liability: Design Defect
- Count III: Negligent Design

- Count IV: Strict Liability: Failure to Warn
- Count V: Negligent Failure to Warn
- Count VI: Negligent Recall
- Count VII: Battery
- Count VIII: Strict Liability: Manufacturing Defect
- Count IX: Negligent Manufacturing
- Count X: Breach of Express Warranty
- Count XI: Breach of the Implied Warranty of Merchantability
- Count XII: Breach of the Implied Warranty of Usability
- Count XIII: Fraud
- Count XIV: Negligent Misrepresentation
- Count XV: Negligence Per Se
- Count XVI: Consumer Fraud and/or Unfair and Deceptive Practices Under State Law
- Count XVII: Unjust Enrichment
- Count XVIII: Loss of Consortium
- Count XIX: Survivorship and Wrongful Death
- Count XX: Medical Monitoring
- Count XXI: Punitive Damages
- Count XXII: Other [specify below]

13. As to Philips RS North America Holding Corporation, Plaintiff(s) adopt(s) the following claims asserted in the Master Long Form Complaint for Personal Injuries,

Damages and Demand for Jury Trial, and the allegations and prayer for relief with regard thereto, as set forth therein:

- Count I: Negligence
- Count II: Strict Liability: Design Defect
- Count III: Negligent Design
- Count IV: Strict Liability: Failure to Warn
- Count V: Negligent Failure to Warn
- Count VI: Negligent Recall
- Count VII: Battery
- Count VIII: Strict Liability: Manufacturing Defect
- Count IX: Negligent Manufacturing
- Count X: Breach of Express Warranty
- Count XI: Breach of the Implied Warranty of Merchantability
- Count XII: Breach of the Implied Warranty of Usability
- Count XIII: Fraud
- Count XIV: Negligent Misrepresentation
- Count XV: Negligence Per Se
- Count XVI: Consumer Fraud and/or Unfair and Deceptive Practices Under State Law
- Count XVII: Unjust Enrichment
- Count XVIII: Loss of Consortium
- Count XIX: Survivorship and Wrongful Death
- Count XX: Medical Monitoring
- Count XXI: Punitive Damages

Count XXII: Other [specify below]

13. As to Polymer Technologies, Inc., Plaintiff(s) adopt(s) the following claims asserted in the Master Long Form Complaint for Personal Injuries, Damages and Demand for Jury Trial, and the allegations and prayer for relief with regard thereto, as set forth therein:

Count I: Negligence

Count II: Strict Liability: Design Defect

Count III: Negligent Design

Count IV: Strict Liability: Failure to Warn

Count V: Negligent Failure to Warn

Count VIII: Strict Liability: Manufacturing Defect

Count IX: Negligent Manufacturing

Count XIII: Fraud

Count XIV: Negligent Misrepresentation

Count XVII: Unjust Enrichment

Count XVIII: Loss of Consortium

Count XIX: Survivorship and Wrongful Death

Count XX: Medical Monitoring

Count XXI: Punitive Damages

Count XXII: Other [specify below]

14. As to Polymer Molded Products LLC, Plaintiff(s) adopt(s) the following claims asserted in the Master Long Form Complaint for Personal Injuries, Damages and Demand for Jury Trial, and the allegations and prayer for relief with regard thereto, as set forth therein:

- Count I: Negligence
- Count II: Strict Liability: Design Defect
- Count III: Negligent Design
- Count IV: Strict Liability: Failure to Warn
- Count V: Negligent Failure to Warn
- Count VIII: Strict Liability: Manufacturing Defect
- Count IX: Negligent Manufacturing
- Count XIII: Fraud
- Count XIV: Negligent Misrepresentation
- Count XVII: Unjust Enrichment
- Count XVIII: Loss of Consortium
- Count XIX: Survivorship and Wrongful Death
- Count XX: Medical Monitoring
- Count XXI: Punitive Damages
- Count XXII: Other [specify below]

15. If additional claims against the Defendants identified in the Master Long Form Complaint for Personal Injuries, Damages and Demand for Jury Trial are alleged above, the additional facts, if any, supporting these allegations must be pleaded. Plaintiff(s) assert(s) the following additional factual allegations against the Defendants identified in the Master Long Form Complaint for Personal Injuries, Damages and Demand for Jury Trial:

Plaintiff developed Asthma as a result of her CPAP use resulting in treatment, and need for future medical care and treatment would not have occurred but for the defective nature of the subject device and Defendants' wrongful conduct.

16. Plaintiff(s) contend(s) that additional parties may be liable or responsible for Plaintiff(s)' damages alleged herein. Such additional parties, who will be hereafter referred to as Defendants, are as follows (must name each Defendant and its citizenship):

17. Plaintiff(s) assert(s) the following additional claims and factual allegations against other Defendants named in Paragraph 16 above:

WHEREFORE, Plaintiff(s) pray(s) for relief and judgment against Defendants and all such further relief that this Court deems equitable and just as set forth in the Master Long Form Complaint for Personal Injuries, Damages and Demand for Jury Trial and any additional relief to which Plaintiff(s) may be entitled.

Date: _____ October 25, 2022

/s/Paul J. Doolittle
Paul J. Doolittle
Blake G. Abbott
POULIN | WILLEY | ANASTOPOULO, LLC
32 Ann Street, Charleston SC 29403
pauld@akimlawfirm.com
blake@akimlawfirm.com

JS 44AREVISED June, 2009
IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA
THIS CASE DESIGNATION SHEET MUST BE COMPLETED

PART A

This case belongs on the (Erie Johnstown Pittsburgh) calendar.

1. **ERIE CALENDAR** - If cause of action arose in the counties of Crawford, Elk, Erie, Forest, McKean, Venango or Warren, OR any plaintiff or defendant resides in one of said counties.
2. **JOHNSTOWN CALENDAR** - If cause of action arose in the counties of Bedford, Blair, Cambria, Clearfield or Somerset OR any plaintiff or defendant resides in one of said counties.
3. Complete if on **ERIE CALENDAR**: I certify that the cause of action arose in _____ County and that the _____ resides in _____ County.
4. Complete if on **JOHNSTOWN CALENDAR**: I certify that the cause of action arose in _____ County and that the _____ resides in _____ County.

PART B (You are to check ONE of the following)

1. This case is related to Number MDL 3014 . Short Caption In re: Phillips CPAP
2. This case is not related to a pending or terminated case.

DEFINITIONS OF RELATED CASES:

CIVIL: Civil cases are deemed related when a case filed relates to property included in another suit or involves the same issues of fact or it grows out of the same transactions as another suit or involves the validity or infringement of a patent involved in another suit **EMINENT DOMAIN:** Cases in contiguous closely located groups and in common ownership groups which will lend themselves to consolidation for trial shall be deemed related.

HABEAS CORPUS & CIVIL RIGHTS: All habeas corpus petitions filed by the same individual shall be deemed related. All pro se Civil Rights actions by the same individual shall be deemed related.

PART C

I. **CIVIL CATEGORY** (Select the applicable category).

1. Antitrust and Securities Act Cases
2. Labor-Management Relations
3. Habeas corpus
4. Civil Rights
5. Patent, Copyright, and Trademark
6. Eminent Domain
7. All other federal question cases
8. All personal and property damage tort cases, including maritime, FELA, Jones Act, Motor vehicle, products liability, assault, defamation, malicious prosecution, and false arrest
9. Insurance indemnity, contract and other diversity cases.
10. Government Collection Cases (shall include HEW Student Loans (Education), V A Overpayment, Overpayment of Social Security, Enlistment Overpayment (Army, Navy, etc.), HUD Loans, GAO Loans (Misc. Types), Mortgage Foreclosures, SBA Loans, Civil Penalties and Coal Mine Penalty and Reclamation Fees.)

I certify that to the best of my knowledge the entries on this Case Designation Sheet are true and correct

/s/Paul J. Doolittle

Date: 10/26/22

ATTORNEY AT LAW

NOTE: ALL SECTIONS OF BOTH ŠPRU MUST BE COMPLETED BEFORE CASE CAN BE PROCESSED.

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.
Original Proceedings. (1) Cases which originate in the United States district courts.
Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.